

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5613 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AMBICA MILLS LTD.

Versus

STATE OF GUJARAT

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Appearance:

MR SB VAKIL for Petitioner  
MR SAMIR DAVE for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/10/96

ORAL JUDGMENT

Heard learned counsel for the parties. Challenge is made by the petitioner by this petition to the decision of the Government, contained in annexure 'A' dated 22.8.85 under which it has declined to condone the delay to apply for exemption certificate for the second Diesel Generating set under the provisions of the Bombay Electricity Duty Act, 1958, as amended from time to time.

2. It is not in dispute that the petitioner, in the present case, applied for condonation of delay on February 12, 1985. As per the provisions of Section 3(2) of the aforesaid Act, the total period for which exemption could be available to the petitioner would be 10 years from the date of starting of generation of energy. The petitioner, as per its case, started generating electricity sometime in November 1975 and this exemption could have been available till October 1985. To claim exemption from electricity duty leviable under the provisions of the Act aforesaid, the consumer is required to apply to the Collector within a prescribed period. It is not in dispute with regard to the fact that in the present case the prescribed period was of 180 days which would start to run from the date of generating the electricity. It is true that there is a provision of condonation of delay in filing of the application seeking certificate for exemption and reference in this respect may have to the provisions as contained in Rule 11(3) of the Bombay Electricity Duty (Gujarat) Rules 1968. The respondent under the impugned order declined to condone the delay and I do not find any illegality in the said order. The delay in filing of the application is of about more than nine years from the date of starting of generating the electricity by the petitioner. No explanation, good, bad or indifferent has been given for such a long delay in filing of the application for grant of certificate of exemption from levy of electricity duty in the present case. The contention of the learned counsel for the petitioner is that the order dated 22nd August 1985 do not contain reasons, but the petitioner has not given out any reason for delay of more than nine years in filing said application which can be condoned.

3. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)